

Response
Serial No. 09/931,858
Attorney Docket No. 011049

REMARKS

Claims 1-8 are pending in the present application. No amendment has been proposed. It is respectfully submitted that this Amendment is fully responsive to the Office Action dated November 25, 2005.

Double Patenting:

The Examiner asserts in item 2 of the Action that claim 1 is a substantial duplicate of claims 3, 5 and 7 and in item 3 that claim 2 is a substantial duplicate of claims 4, 6 and 8. This rejection is respectfully traversed.

It is respectfully submitted that the Examiner's position is clearly incorrect, since claim 1 calls for *a data recording device receiving authentication data and outputting said license key only when said authentication data is authenticated*, which is not recited in either independent claim 5 or independent claim 7. Therefore, it is submitted that claim 1 is patently distinct from claims 5 and 7 and is not a substantial duplicate of either of these claims.

In addition, independent claim 3 calls for *a reproduction unit reproducing said encrypted content data recorded in said data recording device*, which is not called for in independent claim 1. Therefore, it is submitted that claim 1 is patently distinct from claim 3 and is not a substantial duplicate of this claim.

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Further, it is submitted that claim 2 is patently distinct from claims 4, 6 and 8 for at least the same reasons given above with regard to claim 1 being patently distinct from claims 3, 5 and 7.

As To The Merits:

As to the merits of this case, the Examiner now relies on the newly cited references of Sachs et al. (U.S. Patent No. 6,331,865) and Christensen et al. (U.S. Patent No. 5,996,078) in setting forth the following rejection:

claims 1-8 stand rejected under 35 USC 103(a) as being unpatentable over Sachs in view of Kim (U.S. Patent No. 6,044,473, of record) and in further view of Christensen. This rejection is respectfully traversed.

Independent claim 1 calls for *a data recording device recording said encrypted content data and said license key therein, and receiving authentication data and outputting said license key only when said authentication data is authenticated; ... wherein when said detection unit detects that said casing is closed after download of said encrypted content data is started, said power supply control unit controls supplying power required for a call to complete downloading said encrypted content data.* Independent claim 5 is drawn to a similar embodiment.

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Independent claim 3 calls for *a reproduction unit reproducing said encrypted content data recorded in said data recording device; ... wherein when said detection unit detects that said casing is closed after reproduction of said encrypted content data is started, said power supply control unit controls supplying power required for a reproduction process to complete reproducing said encrypted content data.* Independent claim 7 is drawn to a similar embodiment.

For example, as shown in the flow chart of Fig. 13 and as discussed on pages 27 and 28 of the present application, the controller 1106 determines in step S1008 whether the downloading has completed. If the controller determines that the downloading still continues, a detection unit 1117 determines whether the casing of cellular phone 100 has been closed, step S1010. If the casing is closed, the cellular phone is conferred a status on to continue a download process until the current downloading completes, step S1012. With this status, power supply control unit 1116 continues to supply each circuit with a power supply voltage required for the call. Then the amount of data distributed or the like is monitored by controller 1106 to determine whether the downloading has completed, step S1014.

With regard to the primary reference of Sachs, the Examiner acknowledges, in line 17 of page 3 of the Action, that “Sachs does not teach power supply methods”

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Further, with regard to the secondary reference of Kim, the Examiner asserts that “Kim teaches a terminal with a switch to change the power status when the casing of the terminal is closed, (Col 3 lines 1-16).”¹

However, according to Kim:

While the display 10 turns from point A to point B, the lever 12 and the contact 13 connect when the display 10 and the main housing 20 are at an angle of less than 90 degree. At this point, the switch 11 is turned on and a signal from the switch 11 changes the power of a computer system to a power controlling mode.²

That is, in Kim, the power controlling mode is actuated when the display 10 is turned to point B, Fig. 1, and not when the casing of the terminal in closed, as asserted by the Examiner.

Moreover, Kim is completely silent with regard to *a data recording device recording said encrypted content data and said license key therein, and receiving authentication data and outputting said license key only when said authentication data is authenticated; ... wherein when said detection unit detects that said casing is closed after download of said encrypted content data is started, said power supply control unit controls supplying power required for a call to complete downloading said encrypted content data.*

¹ Please see, lines 18-19, page 3 of the Action.

² Please see, lines 28-33, col. 3 of Kim.

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Thus, it is submitted that Kim fails to disclose the above-noted drawbacks and deficiencies of the primary reference of Sachs.

In addition, the Examiner, upon realizing these deficiencies of Sachs and Kim, relies on the teachings of the additional reference of Christensen.

More specifically, the Examiner asserts in lines 2-5 of page 4 of the Action that:

Christensen teaches that power management is prevented in the case of a current download over a modem, (Col 3 lines 5-10). Teaches that when the power switch is turned off, power supply control unit controls supplying power called to complete the downloading data, (Col 5, lines 50-55).

However, it is respectfully submitted that the Examiner is clearly mis-characterizing the teachings of Christensen, since this reference does not disclose that when the power switch is turned off power is still supplied to complete the downloading of data.

Instead, Christensen is concerned with avoiding the timers of the BIOS from counting down to a power shut down condition during, for instance, a serial download operation. That is, as shown in the flowcharts of Figs. 1a and 1b, during an application processing a determination is made as to whether to reset the power management timers (S105) in the BIOS. If yes, then the application program sets the AX register equal to 6 (S107) and calls software interrupt 14h (in S109). The BIOS software interrupt routine 14h checks whether the AX register equals 6

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(S112), and if so resets the power management timers (in S114). As such, the condition of the power management timers counting down during the processing of an application program is avoided by setting the AX register to 6 and calling the software interrupt 14h.

In view of the above, it is respectfully submitted that the additional secondary reference of Christensen fails to teach the above-noted drawbacks and deficiencies of Sachs and Kim.

As such, it is believed that Sachs, Kim and Christensen neither disclose nor suggest a *data recording device recording said encrypted content data and said license key therein, and receiving authentication data and outputting said license key only when said authentication data is authenticated; ... wherein when said detection unit detects that said casing is closed after download of said encrypted content data is started, said power supply control unit controls supplying power required for a call to complete downloading said encrypted content data*, as required by claim 1.

In addition, it is also believed that these references neither disclose nor suggest the features of the other independent claims 3, 5 and 7.

In view of the aforementioned remarks, Applicant submits that the claims are in condition for allowance. Applicant requests such action at an early date.

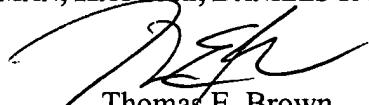
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If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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